
**An
Employer's Guide to
New Jersey
Wage & Hour Laws
for the
Mercantile / Retail
Industry**

NEW JERSEY DEPARTMENT OF

LWD

LABOR AND WORKFORCE DEVELOPMENT
nj.gov/labor

Jon S. Corzine
Governor

Working Together to Keep New Jersey Working

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Division of Wage and Hour Compliance

This division, within the New Jersey Department of Labor and Workforce Development, enforces the New Jersey Wage and Hour laws. The main office for the division is located in Trenton, New Jersey, and may be contacted at:

**Division of Wage and Hour Compliance
New Jersey Department of Labor and Workforce Development
P.O. Box 389
Trenton, NJ 08625-0389
Phone: (609) 292-2305
Fax: (609) 695-1174**

The division also has an office in Newark, New Jersey:

**Division of Wage and Hour Compliance
124 Halsey Street, 4th Floor
Newark, NJ 07104
Phone: (973) 648-2730
Fax: (973) 622-4219**



Additional information about New Jersey's wage and hour laws is available at the department's Web site at www.nj.gov/labor (point to *Program Areas* and click on *Labor Standards*).

Division Units

The division is composed of various units, as follows:

General Enforcement Unit

This unit enforces the New Jersey Wage and Hour Laws through various methods. The primary method of enforcement is through on-site Wage and Hour inspections conducted by field representatives who work in assigned areas throughout the state. Claims from employees for unpaid wages are routinely resolved by inspection or written correspondence with the employer. This unit also assesses civil penalties for violations of New Jersey Wage and Hour Laws.

The general enforcement unit provides information, assistance, and presentations to school officials and classrooms, community groups, and employers regarding child labor laws and procedures involving the issuance of employment certificates (commonly called “working papers”).

Wage Collection Unit

This unit conducts formal proceedings when a wage claim is not resolved on an informal basis with the employer. The wage collection referee’s decision or award (for wages) becomes a judgment when a certified copy thereof is filed with the New Jersey Superior Court.



Wage and Hour Laws

Employees, including minors under 18 years of age, in the mercantile*/retail industry:

MINIMUM WAGE must be paid the minimum wage, which, effective October 1, 2005, is \$6.15 per hour. Effective October 1, 2006, the minimum wage will be raised to \$7.15 per hour. The New Jersey minimum wage rate is currently more than the federal minimum wage, but it would increase in step with any raise in the federal rate if New Jersey's minimum rate fell below the federal rate guidelines. The law provides specific exemptions from minimum wage in two retail occupations: all outside salespersons and salespersons of motor vehicles.

OVERTIME must be paid overtime at one and one-half times their hourly rate for hours worked in excess of 40 hours in a payroll work week. (In the absence of an hourly rate, a rate is established by dividing the total weekly hours into the regular wages.) An employer should establish a seven-day workweek for payroll purposes; it may begin on any weekday and would end on the seventh day; e.g., beginning on Monday and ending on Sunday (even if Sunday is not an actual workday). Hours paid for but not worked (such as sick days, vacation days, etc.) do not count in overtime computation. For example:

An employee works 11 hours per day from Monday through Thursday and on Friday is sick and does not work, but per company policy is entitled to eight hours' sick leave. The total paid hours for that week would be 52 hours (44 hours worked and 8 hours' sick pay) but the employee need be paid only four hours' overtime; i.e., the number of overtime hours actually worked during that payroll week. In addition, overtime cannot be averaged over a two-week period. Further overtime must be paid as earnings. Compensatory time off cannot be used in lieu of overtime pay.

The law exempts certain categories of employees from the requirement to pay overtime. They include those employed in a bona fide executive capacity. The definition of an executive is one:

1. Whose primary duty consists of managing the enterprise in which he or she is employed or managing a customarily recognized department or subdivision thereof; and
2. Who customarily and regularly directs the work of two or more other employees therein; and
3. Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring and firing and as to the advancement and promotion of any other change of status of other employees will be given particular weight; and

* **Mercantile occupation** means:

1. Any employment in or for any industry or business selling or offering for sale any type of merchandise, wares, goods, articles, or commodities.
2. All work connected with soliciting sales or opportunities for sale and distributing such merchandise, wares, goods, articles or commodities and rendering services incidental to the sale, use or upkeep of same whether performed on the employer's premises or elsewhere; or
3. Work performed in manufacturing merchandise sold *at retail* upon the premises where it is manufactured.

4. Who customarily and regularly exercises discretionary powers; and
5. Who devotes less than 20 percent of their workweek to non-exempt work or less than 40 percent if employed by a retail or service establishment, provided that in either case the executive retains their role as manager and supervises two or more full-time employees; and
6. Who is compensated for their services on a salary basis exclusive of gratuities, board, lodging or other facilities, at a rate of not less than \$400.00 per week effective April 1, 1992.

“Executive” shall not include employees training to become executives and not actually performing the duties of an executive.

This exemption category often includes managers and supervisors provided they meet all the above requirements.

Another exemption commonly found in the industry is outside salesperson and that definition is as follows:

1. An employee who is employed for the purpose of and who is customarily and regularly engaged away from the employer’s place or places of business in:
 - i. Making sales; or
 - ii. Obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and
2. Whose hours of work of a nature other than that described in (1.) above do not exceed 20 percent of hours worked in the workweek, provided that work performed incidental to and in conjunction with the outside salesperson’s own personal sales or solicitations, including incidental deliveries and collection, shall be regarded as exempt work. Employees who basically drive vehicles and who only incidentally or occasionally make sales shall not qualify for this exemption.

Note that outside service employees who are dispatched to perform a service and solicit performance of an additional service are not exempt. Also, those employees engaged primarily in the delivery of goods or sales promotion are not exempt.



Approved Methods of Computing Overtime

1. Hourly Rate Employee

If an employee is employed solely on the basis of a single hourly rate, that rate is designated as the regular hourly rate. Overtime must be paid in addition to regular earnings for all hours over 40 at an additional one-half of the regular hourly rate. The employer may use any of the following methods, all of which have the same result, assuming that the weekly hours are 46.

Example:	a.	40 hours x \$8.00	=	\$320.00
		6 hours x 12.00	=	<u>72.00</u>
		46 hours worked	=	\$392.00 gross wages
	b.	46 hours worked x \$8.00	=	\$368.00
		6 hours x \$4.00 (half time)	=	<u>24.00</u>
				\$392.00 gross wages
	c.	46 hours worked	=	49 hours pay x \$8.00 = \$392.00 gross wages

2. Hourly Rate and Bonus or Commission

If the employee receives a production bonus or commission in addition to his hourly rate and works over 40 hours in a week, he is entitled to overtime on the bonus or commission computed as follows:

Example:	50 hours @ \$8.00	=	\$400.00
	bonus & commission		<u>25.00</u>
			\$425.00
	$\$425.00 / 50 = \$8.50 / 2$	=	$\$4.25 \times 10 \text{ hours}$
			<u>42.50</u>
		total earnings	\$467.50

3. Deferred Commission Payments

Commissions that cannot be computed in time for the regular payroll must be apportioned back over the weeks in which they were earned, once the actual amount due is determined. If it is not practical to assign a commission amount to a specific workweek, it becomes necessary to allocate equal fractions of the total amount to each of the weeks involved, as follows:

- 1) Commission computed monthly: multiply by 12 and divide by 52.
- 2) Commission computed semi-monthly: multiply by 24 and divide by 52.

For those workweeks during which overtime activity occurred, the computation of overtime would be made in the manner outlined in example # 2 above.

4. Day Rates or Job Rates

All workers must be paid at least the minimum wage rate. The law does not prohibit payment of “day rates” or “job rates.” First determine the regular rate by adding all the amounts paid for the day or jobs in the workweek and dividing by the total hours actually worked. The overtime rate must be half of the minimum straight time rate (as long as the straight time rate is not less than the minimum wage rate), multiplied by hours worked over 40 hours.

Example: Employee paid \$70 per day
Hours vary from 6 to 9 hours per day
6 days x \$70 = \$420

Hours 45 = (3 days @ 9 hours each + 3 days @ 6 hours)
 $420 / 45 = \$9.33$ regular hourly rate = $\$9.33 / 2 = \$4.67 \times 5 = \$23.35$

\$420.00 (6 days x \$70 day rate)
23.35 overtime
\$443.35 total due

5. Non-Exempt Salaried Employees

If an employee is employed solely on a weekly salary, the regular hourly rate upon which time and one-half must be paid is computed by dividing the salary by the number of hours for which the salary is intended to compensate.

If the salary is for a period other than a week, it must be reduced to a workweek equivalent; i.e., if twice a month, multiply by 24 and divide by 52.

6. Fixed Salary for Fluctuating Hours

This method is valid where there is a clear mutual understanding between the employee and the employer that the fixed salary is compensation apart from overtime for the hours worked each week, regardless of the number of hours worked, provided:

- 1) *The salary is enough to cover at least the minimum wage rate for every hour worked in those weeks in which the number of hours is greatest.*
- 2) *Extra compensation is received for all hours over 40 at a rate of at least one-half of the regular hourly rate.*

The regular hourly rate will fluctuate each week because the hours must be divided into the fixed salary. This method may be used only when the average hourly earnings from the salary do not fall below the minimum rate and where the employee clearly understands that the salary covers whatever hours the job requires. The employer must pay the salary even in a week in which the full hours are not worked. In order for this plan to be in compliance, the employer may pay more than the prescribed premium of 50% for overtime hours worked, but nothing less.

Under U.S. Department of Labor regulations, this is commonly called the “coefficient” method. It is often used by national retail outlets and finance companies subject to federal jurisdiction.

7. When working at two or more rates

In this case, the regular rate may be either:

- 1) The average rate determined by dividing total earnings by the total hours, or
- 2) Time and one-half the rate being received at the time that overtime is actually being performed.

8. Piece Rates Only

The regular hourly rate is computed by adding total earnings for the week at the various piece rates to any amounts paid for waiting or down time, and dividing by the total hours worked in the week. Overtime is then computed by multiplying the overtime hours by one-half of the resulting regular hourly rate.

Example: 44 hours worked per week; 54 pieces @ \$6.27 per piece

$$54 \times \$6.27 = \$338.58 / 44 = \$7.70 / 2 = \$3.85 \text{ (half-time rate)}$$

\$3.85	\$338.58
<u>x 4</u>	<u>+ 15.40</u>
\$15.40 overtime	\$353.98 total due

9. Guaranteed Salary which Includes Overtime

This is a method wherein it is clearly understood by both the employer and the employee that a salary is to be paid for a fluctuating workweek, which includes time and one-half for all hours worked over 40 up to an agreed number. In addition, time and one-half for all hours worked over the agreed number will be paid at the applicable rate. The employee will receive this salary even though the full schedule of hours is not worked. This is referred to as a *built-in overtime plan*, acceptable under New Jersey Law, and frequently referred to as the “Belo” plan.

The term “Belo” refers to an approved federal method that is somewhat similar to the above but has the following important addition: that the actual hours worked must be irregular and that due to the nature of the employee’s duties the number of hours required to perform such cannot be anticipated or controlled by either the employer or employee. The hours must vary, both above and below 40 hours per week.

Premium Payments as Overtime

There are certain premium payments, regarded as overtime premiums, made for work in excess of or outside of specified daily or weekly standard work periods or on certain special days. In these cases, the excess compensation provided by the premium rate need not be included in the regular rate of pay for overtime computation. In addition, the extra compensation may be credited toward overtime payments as required by the law, if at least time and one-half the regular hourly rate is paid. These types of payments are:

- 1) Premium pay for work on Saturday, Sunday and other special days (6th or 7th day of the workweek).
- 2) Premium pay for hours outside of established working hours, but not necessarily undesirable hours (example: normal workday scheduled as 8 a.m. to 5 p.m. and time and one-half paid for 4 p.m. to 8 a.m. is acceptable as an overtime premium. Extra pay such as a shift differential is not acceptable).
- 3) Premium pay for hours in excess of the daily or weekly standard (over 8 or over 35).

Any bonus payments, other than the above and those outlined in New Jersey Wage and Hour Regulation 12:56-6.6(a) 1-7, must be included in computation of the regular hourly rate, *but only the above three may be credited against overtime compensation due.*

Additionally as stipulated in N.J.A.C. 12:56-6.7 Offsets; cash payments:

- (a) Overtime premium payments shall not be offset by allowances for the value of food, lodging, or gratuities since such allowances are already considered in determining the straight time wages paid. Overtime premium payments shall be cash payments by the employer.

- (b) Where the employee's pay includes the value of gratuities, food, or lodging, and it is not feasible to determine the exact regular hourly wage during a particular week, the employer shall be deemed to have fulfilled the overtime requirements of this chapter if the premium payment for the overtime hours is paid in cash on the basis of the agreed hourly wage, but in no event shall the premium payment be at a rate less than the applicable minimum rate.

Computation – Hours Worked

Covered employees must be paid for all the hours worked, or suffered or permitted to work. Work not requested but suffered or permitted is work time; for example, an employee may voluntarily continue to work at the end of the shift, or an employee may desire to finish an assigned task, or wish to prepare time reports or other records. The reason for continuing to work is immaterial. The employer knows or has reason to believe that the employee is continuing to work. The time is considered work time and the employee must be paid.

In all such cases, it is the duty of the management to exercise its control and see that the work is not performed, if the employer does not want it to be performed. The employer cannot accept the benefits without compensating for them. The mere promulgation of a rule against such work is not enough. Management has the power to enforce the rule and must make every effort to do so.

Periods during which the employee is completely relieved from duty and which are long enough to enable the employee to use the time effectively for his own purposes are not hours worked. The employee is not completely relieved from duty and cannot use the time effectively for his own purposes, unless the worker is "definitely" told in advance that he may leave the job and that he will not have to commence work until a "definitely" specified hour has arrived.

On-Call Work Hours

An employee who is required to remain on call on the employer's premises or so close thereto that he cannot use the time effectively for his own purposes is working while "on call." An employee who is not required to remain on the employer's premises but is merely required to leave word at his home or with company officials where he may be reached is not working while on call. Under the circumstances, actual working time starts from the time he responds to a call and ends upon return to the place from where the call started, unless personal use is made of any time in between and must be considered in the computation of overtime. *However, an agreement to pay for hours when an employee is on call but not actually working may be considered a fringe benefit. Because it is a fringe benefit, it would not be added in when establishing the regular hourly rate for overtime compensation.*

Meal Periods – Work Time

Bona fide meal periods are not work time. The employee must be completely relieved from duty for the purposes of eating regular meals. The employee is not relieved if he is required to perform any duties, whether active or inactive, while eating.

Wage Payment Law

The key provisions of the Wage Payment Laws are as follows:

- When a regular payday falls on a non-workday, payment shall be made on the workday immediately preceding the regularly scheduled payday, except where it is otherwise provided for in a collective bargaining agreement.
- The end of the pay period for which payment is made on a regular payday shall be not more than 10 working days before such regular payday.
- If payment is by check, suitable arrangements must be made for cashing in full without difficulty. Employees leaving or terminated for any reason, including labor disputes, shall be paid all wages due not later than the regular payday for the period in which termination occurred.
- An additional 10 days may be allowed in the event of a labor dispute involving payroll employees.
- Employees paid on an incentive system shall be paid a reasonable approximation of wages due until exact amounts can be computed.
- Payment may be made through regular channels or by mail if requested.
- It shall be unlawful to make any agreement for payment other than as provided, except to pay at shorter intervals or to pay wages in advance.
- Wages due a deceased employee may be paid to the survivors in order of preference as outlined in the statute.
- Employees must be paid at least twice a calendar month on regular paydays designated in advance; executive and supervisory employees need only be paid at least once a month.
- Notify employees at the time of hiring of rate of pay and regular paydays.
- Notify employees of changes in pay rates or paydays prior to the changes.
- Furnish each employee with statement of deductions each pay period.

Failure to pay employees as indicated above is not only a violation of the statute but also can be a hardship for employees who rely on their pay for timely payment of bills.

Deductions from Wages

The Wage Payment Law also provides that only the following may be deducted from employees' wages:

- Amounts authorized by New Jersey or United States law or payments to correct payroll errors.
- Contributions or payments authorized by employees either in writing or under a collective bargaining agreement for:

Employee welfare, insurance, hospitalization-medical or surgical or both, pension, retirement, profit sharing and company-operated thrift plans and plans establishing individual retirement annuities on a group or individual basis, or individual retirement accounts at any state- or federally chartered bank or savings and loan association.

- Security option or purchase plans to buy marketable securities.
- Employee personal savings accounts, credit union, savings fund societies, building and loan, saving and loan, Christmas vacation or other savings funds, or U.S. government bonds.
- Purchase of company products or employer loans in accordance with a periodic payment schedule contained in the original purchase or loan agreement.
- Safety equipment.
- Contributions for organized and recognized charities.
- Rental of work clothing or uniforms or for the laundering or dry cleaning of work clothing or uniforms.
- Labor union dues and fees.

Any item *not* listed cannot be deducted or in *any way withheld or made to be paid by an employee*.

Some common examples of ILLEGAL DEDUCTIONS are the following:

- 1) shortages (i.e., cash register, gasoline pump readings, etc.)
- 2) breakages
- 3) missing, damaged, or unreturned property (uniforms, beepers, etc.)

An employer who suspects theft or other criminal behavior has the option to contact the proper law enforcement agencies (local police, prosecutor, etc.).

Even if an employee agrees (verbally or in writing) to a deduction that is prohibited, it is still a violation of law. Any such agreement would be invalid.

Child Labor Laws

MINIMUM AGE OF WORK

Minors may be employed at the minimum age of 14 years.

EMPLOYMENT CERTIFICATE

Minors aged 14 through 17 years of age must obtain an employment certificate (commonly known as “working papers”) prior to their employment. An exception exists for minors aged 15 and older during the time schools are not in session, such as summer vacation, in that no certificate is required in the first 14 days of employment.

The employment certificate forms are obtained from the school district in which the minor resides (usually at the high school or other school facility). If the minor is an out-of-state resident, then the certificate is generally obtained from the district in which the minor will be employed.

PROMISE OF EMPLOYMENT

Part of the process of obtaining an employment certificate involves the employer completing a part of the form, known as the “Promise of Employment” or “Employment Information” section. This section requires the employer to complete the following:

1. Trade name (*not* corporate name) of the business.
2. Type of business/industry — should indicate *retail* or *mercantile*.
3. *Actual* address of the place where the minor is to be employed—street address, *not* mailing or main office or corporate address.
4. Minor’s job title / description — be as specific as possible. Do *not* generalize or use terms such as “helper,” “laborer,” or “general worker;” instead, indicate “stock clerk,” “cashier,” etc.
5. Hours of work — list approximate (we realize some variation may occur) total daily and weekly hours and, if possible, starting and stopping times.
6. Wages — list hourly rate or other payment rate, such as weekly rate.
7. Indicate if all or part (and indicate where) of your premises are covered by a “liquor license.”

Additional information that is helpful is printing your name as employer, manager, etc., and providing a business telephone number; also, it helps to indicate if the job is a “summer job”

since minors are permitted to work different hours and times during that period.

Upon completion of the employment information, return the form to the minor. The minor must return the form (after all sections are completed) to the school's Issuing Officer, who will enter the DATE ISSUED on the certificate. The minor then returns (or the school district mails) the FULLY COMPLETED employment certificate to the employer.

WARNING: DO NOT MAKE THE MISTAKE OF THINKING THE CERTIFICATE IS COMPLETE WHEN YOU COMPLETE THE PROMISE OF EMPLOYMENT INFORMATION. ALSO, BEWARE OF MINORS ENTERING THE ISSUE DATE ON THE FORM RATHER THAN THE ISSUING OFFICER (if in doubt, contact the school).

Finally, an employment certificate is important not only for legal employment of minors but also for proper coverage under Workers' Compensation in the event of an accident or injury to the minor. Failure to obtain an employment certificate can result in a "double award" in Workers Compensation; i.e., the employer would "match" the compensation award; e.g., if the award is \$5,000.00, the employer pays an additional \$5,000.00.

AGE CERTIFICATE

A recommendation for protection against age misrepresentation is to have employees claiming to be between 18 and 21 years of age obtain an age certificate from the school district office that issues employment certificates.

PROHIBITED OCCUPATIONS

An employer would also be subject to a "double award" and to possible civil and/or criminal penalties if a minor were involved in a prohibited occupation. The Child Labor Laws list over 40 prohibitions. Some of the prohibitions that may involve retail/mercantile jobs are:

14 and 15 years of age

- Conveyors and related equipment (except minors at least 15 years old may work as cashiers or baggers)
- Power-driven machinery (except standard domestic appliances and standard office equipment)

All minors under 18 years of age

- Handling dangerous or poisonous acids, dyes, or benzol (and benzol compounds); injurious quantities of toxic or noxious dust, gases, vapors, or fumes (e.g., concentrated or strong cleaning fluids). The manufacture or packing of paints, colors, white or red lead (e.g., mixing paint colors, but it is permissible to handle closed paint containers)
- Handling highly inflammable substances, except minors may operate gasoline pumps at service stations
- Oiling, wiping, or cleaning machinery in motion or assisting therein
- Operating grinding, abrasive, polishing or buffing machines (e.g., key-making machines, floor buffers)

- Transportation of payrolls other than within the employer's premises
- Corrosive material (e.g., drain and oven cleaners)
- Compactors (for trash, cardboard, etc.)
- Hoisting apparatus (e.g., forklifts and lifts in auto repair areas)
- Work in video stores where X-rated movies are rented or sold (unless in a separate area of the store)
- Toxic or hazardous substances (for a detailed list, contact the nearest Occupational Safety and Health Administration [OSHA] office)
- Slicing and grinding machines for food products (e.g., "deli" slicing machines, meat grinding machines)
- Dough brakes or mixing machines (e.g., found in bakeries and pizza parlors)
- The service of single-piece or multi-piece rimwheels (e.g., for repairing tires)
- The service of beverages out of any bar service area (e.g., a bar area in a liquor store)

The above list is not a complete list but one that may commonly involve retail/mercantile operations.

Please note that minors are exempt from some prohibited occupations if they are part of a school's approved instructional program (sometimes known as "co-op," "C.I.E." [Cooperative Industrial Education], "work/study," etc.). Also, minors at least 17 years of age graduating from a vocational school working in their field of study may be exempt.

It is best to check with the minor's particular school to receive more information. Further, minors in junior achievement programs are also exempt. Note, however, that minors involved in a "School-to-Career Initiative" are not exempt from the prohibitions.

See the N.J. Child Labor Laws & Regulations booklet (MW-130) and/or Child Labor Law Abstract (MW-129) for a complete listing. In addition, the U.S. Department of Labor has a listing of hazardous orders for minors, which includes a few more prohibitions, such as driving on a public road.

For further information, contact:

**U.S. Department of Labor
Wage-Hour Division
200 Sheffield Street, Suite 102
Mountainside, NJ 07092
(973) 645-2279**

**U.S. Department of Labor
Wage-Hour Division
3131 Princeton Pike
Bldg 5 – Rm 216
Lawrenceville, NJ 08648
(609) 989-2247/2248**

www.dol.gov

HOURS OF WORK **Minors' hours of work are restricted as follows:**

14 & 15 years of age

- 3 hours per day on a school day (8 hours on a non-school day) when school is in session and not to exceed 18 hours per week.
- 8 hours per day, 40 hours per week during school vacation.
- Not before 7 a.m. or after 7 p.m., except during summer vacation may work until 9 p.m. with written parental permission.

16 & 17 years of age

- 8 hours per day, 40 hours per week.
- Not before 6 a.m. or after 11 p.m., except may work after 11 p.m. on days not preceding a school day with written parental permission.

MINORS UNDER 18 YEARS OF AGE *may not* work more than 6 consecutive days, and they must receive a 30-minute meal period after 5 consecutive hours of work.

RECORD REQUIREMENTS

Records must be kept of a minor's name, address, date of birth, starting and stopping times including meal periods where applicable, total daily and weekly hours, rate of pay and wages paid.

MINIMUM WAGE

Minors working in mercantile/retail occupations must receive minimum wage, which, effective October 1, 2005, is \$6.15 per hour. Effective October 1, 2006, the minimum wage will increase to \$7.15 per hour.

FOR INFORMATION

Any questions concerning the N.J. child labor laws should be directed to:

State of New Jersey Department of Labor & Workforce Development
Division of Wage and Hour Compliance
P.O. Box 389
Trenton, NJ 08625-0389
Phone (609) 292-2305
FAX (609) 695-1174

You will find more information concerning N.J. child labor laws and federal child labor laws on the N.J. Department of Labor and Workforce Development Web site: *www.nj.gov/labor* (point to

Program Areas and click on *Labor Standards*).

Records

New Jersey Wage and Hour Law and Regulations require employers to keep the following records for all employees:

1. Name and address.
2. Date of birth for employees under 19 years of age.
3. Total daily and weekly hours, or a schedule of hours if the employees work a set schedule (such as eight hours per day, 40 hours per week). NOTE: If the employees deviate from the schedule, the actual hours worked must then be recorded. Additionally, for minors under 18 years of age, a record must also be kept of their starting and stopping times and meal periods.
4. Gross and net wages.
5. Itemized deductions.

The type of time and payroll records system kept (hand written, computer, etc.) is at the discretion of the employer, but the *records must be true and accurate!* Employers must keep time and payroll records for six years.

Miscellaneous Laws

Lie Detector Tests. An employer may not request or require an employee to take a lie detector test as a condition of employment (in order to obtain a job), or as a condition of continued employment (the employee would be terminated from the job for refusal to take the test).

Discrimination in Pay Based on Sex. An employer cannot discriminate in any way in the rate or method of payment of wages to any employee because of his or her sex. Any differential in pay, based upon a reasonable factor or factors other than sex, shall not constitute discrimination.

NOTE: Certain other discrimination matters, such as discrimination against employees based upon race, religion, age, etc., are under the jurisdiction of the state's Division on Civil Rights and / or the federal government's Equal Employment Opportunity Commission (EEOC).

Notification by Employer of Change in Health Benefits Plan. An employer must provide, in writing, 30 days' prior notice to its employees before terminating the employee health benefits plan. An employer that changes the employee health benefits plan must provide, in writing, immediate notice to its employees upon receipt of notification from the health insurer that its employees will

be covered by the new plan.

Seats for Employees. Every employer of one or more employees in any manufacturing, mechanical, or mercantile establishment or in the services and operations incident to any commercial employment shall provide and maintain suitable seats conveniently situated and shall permit the use of such seats by employees at all times except when necessarily engaged in the discharge of duties that cannot properly be performed in a sitting position.

Medical Examinations Requested by Employer. An employer or prospective employer may not deduct from the wages of an employee or a prospective employee the cost of a medical examination requested by the employer, nor in any way require the payment for such medical examination. However, where an employee or prospective employee chooses to go to someone other than the physician designated and paid for by the employer, the person is liable for payment. Where the examination is required by a municipal ordinance, the cost of such is the responsibility of the employee or prospective employee.

Civil Penalties

The Commissioner of Labor and Workforce Development, through the Division of Wage and Hour Compliance, is authorized to assess and collect administrative penalties for each separate violation of specific labor laws. Administrative penalties vary with the violation (minimum wage, child labor, wage payment, etc.), but the maximum amounts are as follows:

1. First violation – maximum of \$500.
2. Second and subsequent violations – minimum of \$250 and maximum of \$2,500.

In addition, where wages are due, administrative fees are to be paid as follows:

1. First violation – 10 percent of gross amount due employee(s)
2. Second violation – 18 percent of gross wages
3. Third violation – 25 percent of gross wages

A letter from the Division of Wage and Hour Compliance informs the employer of the amount of the penalty and the conditions of payment.

Criminal Penalties

Criminal penalties vary with the violation (minimum wage, child labor, wage payment, etc.). If convicted, an employer may be assessed fines ranging from \$100 to \$4,000 and/or imprisoned from 10 to 100 days.



State and Federal Agencies Common Informational Inquiries

Nature of Inquiry	Agency	Contact Information
Discrimination NJ Family Leave Act	Dept. of Law & Public Safety Division on Civil Rights	(609) 292-4605 www.njcivilrights.com
Employment Discrimination	Equal Employment Opportunity Commission (EEOC)	(800) 669-4000 (973) 645-6383 www.eeoc.gov
Tax Reporting Unemployment Insurance Temporary Disability Insurance	LWD, Employer Accounts Chief Auditor's Office	(609) 292-2321 www.nj.gov/labor
NJ Income & Sales Taxes	Dept. of the Treasury Division of Taxation	(800) 323-4400 (609) 292-6400 - Rotary Phone www.state.nj.us/treasury
Federal Income Taxes	Internal Revenue Service (IRS)	(800) 829-1040 www.irs.gov
Wage & Hour / Child Labor Laws	LWD, Wage and Hour Compliance	(609) 292-2337/2305 www.nj.gov/labor
	USDOL Wage and Hour Division	(973) 645-2279 - Mountainside (609) 989-2247- Lawrenceville (866) 487-2365 www.dol.gov
Workplace Safety & Health	LWD, PEOSH	(800) 624-1644 - 24 hr. Hot line (609) 633-3896 www.nj.gov/labor
	USDOL, OSHA (use local office)	(973) 263-1003 - Parsippany (201) 288-1700 - Hasbrouck Heights (732) 750-3270 - Avenel (856) 757-5181 - Marlton www.osha.gov
Workers' Compensation	LWD, Workers' Compensation	(609) 292-2515 www.nj.gov/labor
Temporary Disability Benefits	LWD, Temporary Disability Insurance	(609) 292-7060 www.nj.gov/labor
Unemployment Insurance	LWD, Unemployment Insurance	(609) 292-0695 www.nj.gov/labor
Immigration/Illegal Aliens/ Work Authorization	USDOL, US Citizenship & Immigration Services (USCIS)	(800) 375-5283 www.uscis.gov
Employee Pension/Retirement Plans Health & Welfare Plans Post-employment Health Benefits (COBRA)	USDOL Employee Benefits Security Administration	(212) 607-8600 - New York City (215) 861-5300 - Pennsylvania (202) 219-8776 - Washington (866) 444-3272 or (866) 275-7922 www.dol.gov/ebsa